

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

FIRST APPEAL NO.1219 OF 1992

New India Insurance Co.Ltd.
Policy No.31/151001/138/04821.

Appellant
(orig.respondent no.3)

vs.

1. Mr.Subhash Shivappa Dhongade
Age 40 yrs.occup:Service,
R/o.Ismail Nagar, Miraj,
Dist.Sangli.
2. Mrs.Suman Subhash Dhongade
Age 35 years, occup.Household,
R/o.Ismail Nagar, Miraj,
Dist.Sangli.
3. Mr.Ramchandra Sarjerao Shinde
Age 35 years, occup: Driver,
R/o.Wagoli, Taluka: Mahakal.
4. Mr.Ramro Ganpatrao Satarkar
Age 55 yrs., occup: Business,
R/o.Aatpadi, Dist.Sangli.

Respondents
(No.1 to 2-orig. Applicants,
Nos.3 & 4-orig.Res.Nos.1 &
2)

Ms.Urmila K. Sanil for the appellants.

CORAM : ANOOP V. MOHTA,J.

DATED : 18th July, 2007

ORAL JUDGMENT:

The appellant-The New India Assurance Company Limited have challenged the award of grant of no fault liability as contemplated under the Motor Vehicles Act, 1988.

2. Now, in view of the Supreme Court judgement by which

Full Bench judgement of this Court reported in **2003(4) Mah.L.J. 990 - Divisional Controller, MSRTC, Jalgaon v. Bapu Onkar Chaudhari**, has also been set aside. In the result, there is no issue that such appeal against the award of grant of no fault liability is maintainable.

3. The Motor Accident Claims Tribunal, Sangli in Motor Accidents Claim No.229/1989 directed the appellant to pay Rs.25,000/- with interest based upon the said provisions and, therefore, the present appeal.

4. Without expressing anything on the merits, it is sufficient to observe that the amount so awarded has been adjusted while passing the final award in the matter. Even otherwise, the said amount is liable to be adjusted by the Tribunal while passing the final award on such claim petition.

5. In view of this, there is no reason now to consider the impugned order dated 24.4.1990. It is not the case that immediately thereafter passing the impugned order this Court or the Appellate Court would have heard the matter and passed such order or direction even to consider liability of the insurance company, if case is made out. This appeal has come up for final hearing and therefore keeping all points open, if any, and considering the fact that there is final award already

passed and amount has been adjusted, I am not inclined to interfere with the order passed by the court. The appeal is therefore, dismissed with liberty. All points are kept open.

6. No costs.

[ANOOP V. MOHTA,J.]